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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,775	10/29/2003	Yuji Hirano	244736US0	6703
22850	7590	07/18/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER VENKAT, JYOTHSNA A	
			ART UNIT 1615	PAPER NUMBER
			NOTIFICATION DATE 07/18/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/694,775

Applicant(s)

HIRANO, YUJI

Examiner

JYOTHSNA A. VENKAT Ph. D

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Receipt is acknowledged of amendment and remarks file don 3/29/07. Claims 5-16 has been added as per applicant's amendment dated 3/29/07. Claims 1-16 are pending in the application and the status of the application is as follows:

The following new ground of rejection is necessitated by the amendment.

Claim Rejections - 35 USC § 103

Claims 1-6, 8-11, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patents 6,685,953 ('953) and 6,368, 582 ('582).

The instant application is claiming hair cosmetic composition comprising:

1. Diamide
2. higher fatty alcohol or fatty acid
3. Surfactant (species is quaternium salt)
4. Silicone derivative

Patent '953 teaches external preparations using the same claimed diamide. See the abstract, see col.s 2-6 for the diamide, see col.7, lines 41-56 and see col.8, lines 8-30, where the patent teaches using diamide in hair care art. Patent at col.7, line 23 teaches fatty acids and at line 61 teaches cationic surfactant can be added to diamide. Patent '953 does not teach higher amount of fatty alcohol or silicone derivative or specific cationic surfactant. However patent '582 teaches hair conditioning composition using cationic surfactant. Patent teaches these cationic surfactants as conditioning agents. See the abstract, see col.6, ll 51-68, col.7, ll 139, and see col.9, ll 18-52. The patent teaches the salts of the amines and these are claimed in claim 6. Patent '582 teaches fatty acids and higher fatty alcohols. See col.6, ll 7-50 for fatty alcohols and

fatty acids. See col.12, ll 16 through col.s 13-15 for various silicone derivatives. Patent at col.20, lines 14-16 suggest that protein, collagen, or keratin can be added to the composition. See the same column, ll 39-42 for the ranges.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hair composition of '953 and add fatty alcohol or fatty acids, cationic surfactant, silicones, protein taught by patent '582 in analogous hair compositions. One of ordinary skill in the art would be motivated to add the ingredients taught by '582 and prepare another analogous composition with the reasonable expectation of success that new hair compositions also exhibit improved touch feel and preventing chapping of the scalp and addition of cationic surfactant has the advantage of providing conditioning effect and silicones are known conditioning agents and the compositions also has enhanced conditioning property using all the compounds that are conditioning agents. This is a prima facie case of obviousness.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patents 6,685,953 ('953) and 6,368, 582 ('582) as applied to claims 1-6, 8-10, and 14-16 above, and further in view of U. S. Patent 5,945,093 ('093).

Patents '953 and '582 do not teach the surfactant, which is amidoamine. However patent '093 teaches amidoamine in conditioning shampoo compositions. See col.3, ll 34-68 and see col.5, ll 5-6 for the specific compounds. Patent at col.5, ll 40 et seq teaches silicone compounds.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hair composition of '953 and add fatty alcohol or fatty acids, cationic surfactant, silicones, protein taught by patent '582 and add amidoamine surfactants taught by '093 in analogous hair compositions. One of ordinary skill in the art would be

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motivated to add the ingredients taught by '582 and patent '093 and prepare another analogous composition with the reasonable expectation of success that new hair compositions also exhibit improved touch feel and preventing chapping of the scalp and addition of cationic surfactant has the advantage of providing conditioning effect and silicones are known conditioning agents and they provide enhancing conditioning property to the compositions. This is a prima facie case of obviousness.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patents 6,685,953 ('953) and 6,368, 582 ('582) as applied to claims 1-6, 8-10, and 14-16 above, and further in view of DE 199 02 530 ('530).

The DE document has been submitted for translation. Examiner is relying on this document for ceramides. Patents '953 and '582 do not teach ceramides in the hair compositions. However DE document teaches ceramides. See the abstract, and see patent abstract for the structure, which is acylated sphingosine. Ceramides are lipids and they exhibit conditioning property.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hair composition of '953 and add fatty alcohol or fatty acids, cationic surfactant, silicones, protein taught by patent '582 and add ceramides taught by DE '530 in analogous hair compositions. One of ordinary skill in the art would be motivated to add the ingredients taught by '582 and DE and prepare another analogous composition with the reasonable expectation of success that new hair compositions also exhibit improved touch feel and preventing chapping of the scalp and addition of cationic surfactant has the advantage of

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providing conditioning effect and silicones are known conditioning agents and adding Ceramide also provide conditioning property. This is a prima facie case of obviousness.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

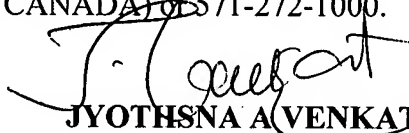
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT Ph. D whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30: 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JYOTHSNA A VENKAT Ph. D
Primary Examiner
Art Unit 1615
